

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF GARY L.) APPEAL NO. 07-A-2497
AND MARY T. SMITH from the decision of the Board) FINAL DECISION
of Equalization of Idaho County for tax year 2007.) AND ORDER

VACANT LAND APPEAL

THIS MATTER came on for hearing October 24, 2007 in Grangeville, Idaho before Board Member Linda S. Pike. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Appellants Gary and Mary Smith appeared at hearing. Assessor James Zehner and Appraisers Kathy Terhaar and Ron Funke appeared for Respondent Idaho County. This appeal is taken from a decision of the Idaho County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP025500010020A.

The issue on appeal is the market value of a vacant residential lot.

The decision of the Idaho County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$51,741. Appellants request the land value be reduced to \$25,000.

The subject property is an unimproved 5.22 acre residential parcel located in Quailwood Estates Subdivision in Idaho County. Appellants purchased subject in May 2006.

Appellants contended subject's approximately 400% increase over the 2006 value was excessive. Appellants' argued the restrictive subdivision covenants were a detriment to subject's value and should be considered in the assessment. A full copy of the covenants was provided, however the following were specifically mentioned; houses cannot be less than 1,250 square feet in size, only one structure can be built on a single parcel regardless of the parcel's size, once started, construction of a residence must be completed within one (1) year, only certain

exterior finishes were allowed, and only two (2) dogs are allowable per residence.

Appellants acknowledged the covenants were in place prior to subject's purchase and stated they may actually add value once development of the subdivision begins. However, because nothing has yet been built, it was argued the covenants reduce the number of potential buyers and in turn hinders the marketability of subject.

Respondent explained subject was assessed as "adjacent land" for the 2006 tax year. The County values adjacent land by combining the entire contiguous acreage owned by the same person into a single larger parcel. The value of the whole parcel is determined and is then divided by the number of total acres to arrive at a per acre value rate. This rate is then applied to the smaller parcel individually. The end result is, smaller lots are assessed less per acre than they would be if assessed individually. It was noted if subject were not valued as adjacent land, the 2006 assessment would have been \$32,338, rather than \$13,703.

To support subject's current assessed value, Respondent pointed to three (3) sales of bare lots in subject's subdivision. The sales were used to establish the trend rate of 1.6 in the subdivision. Sale #2 occurred in October 2006 and involved a 9.102 acre lot that sold for \$7,691 per acre. The covenants did not apply to this property. Sales #1 and #3 sold in January 2007 and involved 12.704 and 10.0 acre lots that sold for \$10,076 and \$8,800 per acre, respectively. Sale #1 was covered by the covenants, Sale #3 was not. Respondent noted Sale #1 had the highest price per acre despite being covered by the covenants. This indicated to Respondent that perhaps the covenants actually added value. In any event, the lots in the subdivision were valued the same regardless of whether or not they were governed by the covenants.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to

support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Per statute, property is to be assessed at market value as of January 1 each year. Idaho Code § 63-205. The applicable lien date in this case is January 1, 2007.

Market value is defined in Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant argued the covenants that governed subject were very restrictive and detracted from the value of the property. Appellant believed the covenants may actually add value once development begins in the subdivision, however because construction had not yet started, the covenants limited the available pool of buyers willing to buy “restricted” lots.

Appellant did not provide market value evidence to support the assertion that the covenants negatively affect value. Likewise from the limited number of sales available, Respondent was unable to determine whether the covenants added or detracted from lot values. As such, there is not enough evidence to justify lowering subject’s assessed value on this basis.

Respondent provided the 2007 assessed values of all three (3) sale properties. They were each assessed at \$7,920 per acre. As subject was assessed at \$9,912 per acre, there appear to be inequities. Perhaps it is just coincidence the three (3) sales properties were assessed roughly 25% less than subject or maybe reasons unknown in the record explain the notable discrepancy. In all, there is not enough information concerning the assessments in the

overall subdivision to determine if subject was indeed treated inequitably.

Respondent used three (3) lot sales in subject's subdivision to support the assessment. Two (2) of the sales presented occurred in January 2007. As noted above, January 1, 2007 is the pertinent date in this appeal. As such, sales occurring after the lien date cannot be considered to establish subject's 2007 value. This leaves the October 2006 sale as the only timely value evidence for the Board to consider. The sale involved a 9.102 acre lot that sold for \$7,691 per acre.

Notable is the large variance between the price per acre of the October 2006 sale and subject's assessed value. As this is the only timely sale before us, it must serve as the basis for determining subject's value. At 9.102 acres, the sale is noticeably larger than subject's 5.22 acres. Economies of scale naturally suggest a lower price per acre for larger parcels than smaller ones. As such, we believe a reasonable value per acre for subject is \$8,000, resulting in an assessed value of \$41,760. The decision of the Idaho County Board of Equalization is modified accordingly.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Idaho County Board of Equalization concerning the subject parcel be, and the same hereby is, modified, to reflect a decrease in value to \$41,760.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 30, 2008